

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Lee Michael Pederson,

Court File No. ____

Plaintiff,

v.

Phillip Frost, OPKO Health, Inc., Brian
Keller, CoCrystal Pharma, Inc., and J.
Does 1–50,

NOTICE OF REMOVAL

Defendants.

Pursuant to 28 U.S.C. §§ 1332 and 1441, Defendant OPKO Health, Inc. (“OPKO”) hereby removes this action from the Hennepin County District Court, Fourth Judicial District, State of Minnesota (the “State Court Action”), to this Court.

GROUND FOR REMOVAL

1. This action is removable based on diversity jurisdiction, as codified at 28 U.S.C. §§ 1332(a), 1441(b).

2. Removal is timely because the complaint in the State Court Action was served on OPKO on December 4, 2017, and this Notice of Removal has been filed within thirty days of service, as required by 28 U.S.C. § 1446(b) and Fed. R. Civ. P. 6(a).

3. The other named Defendants, Phillip Frost (“Frost”), Brian Keller (“Keller”), and CoCrystal Pharma, Inc. (“CoCrystal”) (collectively with OPKO, the “Named Defendants”), consent to removal, as required by 28 U.S.C. § 1446(b)(2)(A).

4. Pursuant to 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders served upon OPKO in the State Court Action are filed with this notice as **Exhibit 1**.

5. Venue in this Court is proper under 28 U.S.C. § 1441(a) because this Court has diversity jurisdiction and is the United States District Court for the district and division corresponding to the place where the State Court Action is pending.

BACKGROUND

6. Plaintiff Lee Michael Pederson (“Pederson”) commenced the State Court Action against the Named Defendants and various “Doe” Defendants by serving the Complaint on OPKO on December 4, 2017. In general, the Complaint alleges that Defendants engaged in a “complex and ongoing pump and dump (P&D) securities fraud . . .” (Compl. at ¶ 4.) Specifically, Pederson asserts claims for: (1) fraud (*id.* at ¶¶ 293–316) and (2) tortious interference with prospective business advantage (*id.* at ¶¶ 317–32). In relevant part, Pederson purports to seek compensatory damages in the amount of \$2.4 million. (*Id.* at ¶ 333.)

7. Pederson is a resident of Hennepin County, Minnesota. (Compl. at ¶ 15.)

8. Pederson alleges that Frost is a resident of Miami Beach, Florida. (Compl. at ¶ 16.)

9. Pederson alleges that OPKO is a Delaware corporation with its principal place of business in Miami, Florida. (Compl. at ¶ 17.)

10. Pederson alleges that Keller is a resident of Contra Costa County, California. (Compl. at ¶ 18.)

11. Pederson alleges that CoCrystal is a Delaware corporation with its principal place of business in Tucker, Georgia. (Compl. at ¶ 19.)

12. Other than service of the Summons and Complaint on OPKO, no further proceedings have occurred with respect to the State Court Action. The Summons and Complaint have not yet been filed in Hennepin County District Court and thus there is no case number for the State Court Action.

13. Pederson agreed to give the Named Defendants until January 15, 2018 to respond to the Complaint.¹

14. Frost consents to removal and counsel for Keller and CoCrystal confirm that they also consent to removal of the State Court Action.

DIVERSITY JURISDICTION AND REMOVAL

15. Pederson is a citizen of Minnesota. Frost is citizen of Florida. Keller is a citizen of California. OPKO is a citizen of Delaware and Florida. CoCrystal is a citizen of Delaware and Georgia. There is diversity of citizenship because none of the Named Defendants share Minnesota citizenship with Pederson. *See* 28 U.S.C. § 1332(a)(1).

16. Pederson seeks \$2.4 million in compensatory damages. Therefore, the amount in controversy requirement for diversity jurisdiction is satisfied. *See* 28 U.S.C. § 1332(a).

17. Removal of the State Court Action is appropriate because this Court has diversity jurisdiction. *See* 28 U.S.C. § 1441(b).

¹ Upon the filing of this Notice of Removal and assignment of a judicial officer, the Named Defendants will seek leave from the Court to extend the period of time in which to respond to the Complaint, pursuant to Fed. R. Civ. P. 6(b).

NOTICE

18. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal is filed with this Court within thirty (30) days of OPKO's receipt of the Summons and Complaint.

19. The State Court Action has not yet been filed by Pederson in Hennepin County District Court.

20. Pursuant to 28 U.S.C. § 1446(d), a Notice of Filing Notice of Removal is being filed with the Hennepin County Court, a copy of which is attached hereto and marked as **Exhibit 2**.

21. Pursuant to 28 U.S.C. § 1446(d), OPKO will give written notice to Pederson that this action has been removed to this Court.

22. The prerequisites for removal under 28 U.S.C. §§ 1441 and 1446 are satisfied. However, if any questions arise as to the propriety of the removal of this action, OPKO requests the opportunity to present a brief, oral argument, and further evidence necessary to support its position that this case is removable.

23. OPKO (and all Named Defendants) reserves all rights, defenses, and objections to this action, including defenses and objections as to the appropriate venue and jurisdiction. The filing of this notice of removal is subject to, and does not waive, any such defenses and objections. OPKO further reserves the right to amend or supplement this notice of removal.

WHEREFORE, Defendant OPKO requests that the State Court Action be removed from the District Court for Hennepin County in the State of Minnesota to the United States District Court for the District of Minnesota.

Dated: December 29, 2017

Respectfully submitted:

/s/ Joseph T. Dixon, III

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